

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals of the District of Columbia.

OCTOBER TERM, 1921.

No. 3610.

777

WILLIAM P. CRANDELL, APPELLANT,

vs.

JOHN L. WEAVER AND CLARENCE DODGE, TRADING AS
THE FIRM OF WEAVER BROS.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.

FILED APRIL 13, 1921.

PRINTED JULY 22, 1921.

Court of Appeals of the District of Columbia.

OCTOBER TERM, 1921.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.

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Court of Appeals of the District of Columbia.

No. 3610.

WILLIAM P. CRANDELL, Appellant,

vs.

JOHN L. WEAVER et al.

a Supreme Court of the District of Columbia.

At Law.

No. 64816.

JOHN L. WEAVER and CLARENCE DODGE, Trading as the Firm of
Weaver Bros., Plaintiffs,

vs.

WILLIAM P. CRANDELL, Defendant.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following pages were filed and proceedings had, in the above entitled cause, to wit:

1 *Complaint in the Municipal Court.*

Filed December 9, 1920.

In the Supreme Court of the District of Columbia.

At Law.

No. 64816.

JOHN L. WEAVER and CLARENCE DODGE, Trading as the Firm of
Weaver Bros., Plaintiffs,

vs.

WILLIAM P. CRANDELL, Defendant.

DISTRICT OF COLUMBIA, *To wit:*

Your Complainants, John L. Weaver and Clarence Dodge, trading as the firm of Weaver Bros., Clarence Dodge being first duly sworn according to law, states that they are entitled to the possession of the

premises Apartment #10, The Sheridan, 1523 22nd St. N. W., located in the District of Columbia, and that the same is unlawfully detained from them and held without right by the defendant William P. Crandell to whom the complainants have heretofore rented the said premises as a monthly tenant and whose tenancy and estate has been determined by service of a due notice to quit expiring Oct. 31, 1920. Complainants therefore pray that a Summons be issued commanding the defendant to appear and show cause why judgment should not be given against him for the restitution of the possession of said premises, and costs of this suit.

CLARENCE DODGE,
For WEAVER BROS.

GEO. E. SULLIVAN,
Attorney for Plaintiffs.

2 Subscribed and sworn to before me this 2nd day of November A. D. 1920.

[SEAL.]

PAUL N. CHERRY,
Notary Public, D. C.

Plaintiff's Affidavit under Rule 19.

Filed December 28, 1920.

* * * * *

DISTRICT OF COLUMBIA, *To wit:*

Clarence Dodge, being first duly sworn, deposes and says that he is a member of the plaintiff firm composed of John L. Weaver and himself, and doing business as "Weaver Bros."; that the premises herein concerned, Apartment #10, The Sheridan, 1523 22nd Street N. W., Washington, D. C., were, on October 1, 1920, held by the defendant, William P. Crandell, of the plaintiffs as his landlord under an oral month to month tenancy under which said defendant was paying monthly rental to the plaintiffs, constituting in law a tenancy at sufferance; that on said October 1, 1920, the plaintiffs served upon said defendant a written notice to quit, in the words and figures following:

"Notice to Quit.

Mr. William P. Crandell,
Apt. #10, The Sheridan,
Washington, D. C.

Washington, D. C.,
October 1st, 1920.

DEAR —:

As we are desirous of having and repossessing ourselves of Apt. #10, The Sheridan, which you hold of us as tenant, we hereby give you notice to remove from and quit the said premises at the expiration of the 31st day of October, 1920.

3

WEAVER BROS.,
By CLARENCE DODGE."

and further that the aforesaid premises are still unlawfully detained from the plaintiffs, and held without right by the defendant, and plaintiffs are entitled to possession of said premises, and were so entitled at the time of the commencement of this action in the Municipal Court, exclusive of all grounds of defense.

CLARENCE DODGE.

Subscribed and sworn to before me this 26th day of December, 1920.

[SEAL.]

PAUL N. CHERRY,
Notary Public, D. C.

Motion to Strike Out and Quash.

Filed January 12, 1921.

* * * * *

Now comes the Defendant appearing specially for the purpose, having appeared specially in the Municipal Court, moves the Court to strike out the affidavit of the Plaintiff and to quash the summons and dismiss the writ for the following reasons:

1. Because the summons served on the defendant was not signed by the clerk or assistant clerk of the Municipal Court, but was only printed or stamped thereon.

4 2. Because the summons, complaint and affidavit show on their faces that they were sued out in violation of the Rents Act of the District of Columbia, known as the Ball Law.

3. Because the Municipal Court has not jurisdiction of Landlord and Tenant Cases where they are terminated by notice, but only where the lease has expired.

4. Because there is a variance between the complaint which charges a monthly tenancy and the affidavit which alleges a tenancy at sufferance.

5. Because the notice in the affidavit is bad, as it was served on October 1, 1920, to move after October 31, 1920.

6. Because the affidavit only states conclusions of Law and is not sufficient to constitute a cause of action.

R. M. HUDSON,
Attorney for Defendant.

To George E. Sullivan, Esq.,
Attorney for Plaintiff:

Take notice that the foregoing motion will be for hearing at 10 A. M., Friday, January 11, 1921.

R. M. HUDSON,
Attorney for Defendant.

Affidavit of Defense.

Filed January 12, 1921.

* * * * *

5 I, William P. Crandell, being first duly sworn, without waving my motion to strike out quash and dismiss, but relying on same and making it part hereto, depose and say:

That I am the defendant in the above action, and that the plaintiff is not entitled to recover possession of the premises sought in this action. That prior to the institution of this action this defendant instituted proceedings before the Rent Commission of the District of Columbia against the plaintiff to declare the notice relied on in this action to be illegal and insufficient, and to fix the rent, and the plaintiff herein was duly summoned to answer the said complaint; that after hearing said notice was declared illegal and insufficient and no appeal was taken to the Court of Appeals by the plaintiff herein; that this proceeding is simply a part of a plan to secure an increase of rent and not to get possession; that the plaintiff has waived the alleged 30 days' notice; that prior to, and about the time of and after the service of the said 30 days' notice, and after the expiration of said 30 days' notice, the plaintiff verbally, and in writing, offered the defendant a new lease at a higher rental; that the alleged notice is not a sufficient notice to entitle the plaintiff to possession; that the plaintiff's affidavit does not state a cause of action; that 19th Rule of the Court is illegal and invalid so this defendant is advised and so charges; that the plaintiff did not serve a 30 days' notice on the defendant setting out that he in good faith and bona fide needed the said premises for the occupancy of himself or his family or dependents.

6 The Municipal Court did not have jurisdiction of this action as the notice was not in accordance with the requirements of the Ball Rent Law, and a certificate of permission has not been obtained by the plaintiff from the Rent Commission of the District of Columbia, under the said law, certifying that the plaintiff was entitled to possession; that no application was made by the plaintiff to the Rent Commission; that the plaintiff does not want or need the said premises for the actual bona fide occupancy of himself, his wife, children, or dependents, or for the purpose of tearing down or razing the same in order to immediately construct new rental property hotel or apartment; that the plaintiff had not complied with any of the requirements of the Rent Commission Law of the District of Columbia known as the Ball Rent Law, nor with the Saulsbury Resolution, that the Municipal Court did not have jurisdiction of this action for the further reason that it only has jurisdiction of Landlord and Tenant cases where the tenancy has expired. That defendant demands a jury trial.

WILLIAM P. CRANDELL.

Subscribed and sworn to before me this 12 day of January, 1921.

[SEAL.]

F. L. MAGRUDER,
Notary Public, D. C.

7

Supreme Court of the District of Columbia.

Wednesday, February 23rd, 1921.

Session resumed pursuant to adjournment, Hon. F. L. Siddons,
Justice presiding.

* * * * *

Come now the parties hereto by their respective attorneys of record and thereupon defendant's motion to strike out plaintiffs' affidavit is denied, and the motion for judgment granted. Thereupon plaintiffs' attorney moves that judgment for possession only be now entered and that the matter of intervening damages to the leased property and compensation for the use and occupation thereof, with costs of suit, be reserved for future determination, which is hereby ordered.

Wherefore, it is considered that the plaintiffs do have and recover of defendant possession of the premises Apartment No. 10, The Sheridan, 1523—22nd St. N. W., located in the District of Columbia, and have execution thereof.

From the foregoing judgment, the defendant by his attorney, in open court, notes an appeal to the Court of Appeals; whereupon, the maximum of an undertaking to operate as a supersedeas, is hereby fixed in the sum of Seven Hundred Dollars.

Memorandum.

February 24, 1921.—Undertaking on appeal (supersedeas) filed.

8

Assignment of Error.

Filed March 14, 1921.

* * * * *

The appellant makes and files the following Assignments of Error on appeal to the Court of Appeals to the rulings of the Supreme Court.

1. The Court erred in not sustaining the Motion to quash the summons and dismiss the action, as (a) Sections 20 and 1225 of the Code are unconstitutional as class legislation and putting a burden on defendant to obtain a jury trial which is not put on defendant in other actions; as (b) the Municipal Court did not have jurisdiction under either the Ball Rent Law, or Sections 20 or 1225 of the Code; as (c) the action is in defiance of the Ball Rent Law requirements; as (d) the summons served on defendant only had the clerk's name stamped on it with a rubber stamp.

2. The Court erred in not striking out plaintiff's affidavit as (a) there is a variance between the affidavit and summons; as (b) the notice is not sufficient as it fixes no day to quit, only says *after* October 31, 1920; as (c) the affidavit only states conclusions of law and not facts constituting a cause of action; as (d) Rule 19 is unconstitutional, illegal and void; as (e) the affidavit shows plaintiffs had not complied with any of the requirements of the Ball Rent Law.

3. The Court erred in granting judgment for the plaintiffs for possession on the affidavit for (a) the same reasons as set out in the foregoing assignments of error, and as (b) the plaintiffs had
9 waived the thirty day notice by offering defendant, after the expiration of the notice, a new lease at a higher rental; as (c) defendant's affidavit states sufficient facts to raise an issue for a jury as to waiver of notice; as (d) plaintiffs are estopped by the action before the Rent Commission to deny the validity of the Ball Rent Law; as (e) defendant's affidavit distinctly denies compliance, by plaintiffs, with any of the requirements of (naming them) the Ball Rent Law.

RAYMOND M. HUDSON,
Attorney for Appellant.

Designation of Record.

Filed March 14, 1921.

* * * * *

Now comes the appellant and directs the clerk to copy the following papers into the transcript of the record in this appeal to the Court of Appeals:

1. Complaint in Municipal Court.
2. Affidavit of Plaintiff.
3. Motion to Strike out and quash.
4. Affidavit of Defense.
5. All Orders and Judgment of Supreme Court.
6. Assignments of Error.
7. Designation of Record.

RAYMOND M. HUDSON,
Attorney for Appellant.

10 To George E. Sullivan, Esq.,
Attorney for appellee:

Take notice that the clerk will be directed to make up the transcript of the record for the Court of Appeals pursuant to the foregoing Designation of Record and the attached Assignments of Error.

RAYMOND M. HUDSON,
Attorney for Appellant.

Additional Assignments of Error.

Filed March 24, 1921.

* * * * *

The Appellant makes and files the following additional Assignments of Error on Appeal to the Court of Appeals from the rulings of the Supreme Court of the District of Columbia.

4. The court erred in giving judgment for the plaintiffs on their 30 day notice to quit as served on defendant, for the said notice was (a) waived by an offer of a new lease at a higher rental after the service of said notice (b) served by plaintiffs' attorney in such a manner and accompanied by statements, that lead the defendant to believe that it was only a threat to force the signing of a new lease at a higher rental (c) not a bona fide notice to quit as the manner of serving the same lead defendant to believe that a new lease would be granted by plaintiffs on compromise terms and it was not until the time specified in the notice had almost expired, that defendant was advised and thought that a compromise was impossible, and then only a few days remained out of the 30 days allowed in the notice to arrange for moving (d) in effect a notice to quit giving the defendant-tenant an option of remaining in possession upon payment of a specified increased rent and therefore not valid.

TOWSON PRICE,
Attorney for Appellant.

Additional Designation of Record.

Filed March 24, 1921.

* * * * *

Now comes the appellant and directs the clerk to copy the following additional assignments of error into the transcript of the record in this appeal to the Court of Appeals, and this designation.

8. Additional Assignments of Error.

9. Additional Designation of Record.

TOWSON PRICE,
Attorney for Appellant.

To George E. Sullivan, Esq.,
Attorney for Appellees:

Take notice that the clerk will be directed to make up the transcript of the record for the Court of Appeals including the foregoing additional designation of Record and the attached additional Assignments of Error.

TOWSON PRICE,
Attorney for Appellant.

12 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, Morgan H. Beach, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 11, both inclusive, to be a true and correct transcript of the record, according to directions of counsel herein filed, copies of which are made part of this transcript, in cause No. 64816 at Law, wherein John L. Weaver and Clarence Dodge, trading as the firm of Weaver Bros. are Plaintiffs and William P. Crandell is Defendant, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 7th day of April, 1921.

[Seal of Supreme Court of the District of Columbia.]

MORGAN H. BEACH,
Clerk,

By W. E. WILLIAMS,
Assistant Clerk.

E. W.

Endorsed on cover: District of Columbia Supreme Court. No. 3610. William P. Crandell, appellant, vs. John L. Weaver et al. Court of Appeals, District of Columbia. Filed Apr. 13, 1921. Henry W. Hodges, clerk.

(4300)

IN THE
Court of Appeals, District of Columbia.

OCTOBER TERM, 1921

SEP 2 - 1921

No. 3610

WILLIAM P. CRANDELL, APPELLANT,

v.

JOHN L. WEAVER AND CLARENCE DODGE, TRADING
AS THE FIRM OF WEAVER BROTHERS, APPELLEES.

Consolidated with the above case, for hearing on the printed record in said case only, are the following cases, which are to abide by the judgment in the same. The appellees in the following cases are the same as in the above case:

- No. 3611, L. T. BROWN, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3612, SUSAN P. KEECH, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3613, CHARLES W. RUSSELL, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3614, EARL B. FULLER, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3615, C. VICTOR ZEBLEY, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3616, HALLIE A. TUCKER, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3617, TOWSON PRICE, *Appellant*, v. WEAVER ET AL.,
Appellees.
- No. 3618, CHARLES W. FLOYD, *Appellant*, v. WEAVER ET AL.,
Appellees.

BRIEF ON BEHALF OF APPELLANTS.

TOWSON PRICE,
Attorney for Appellants.

IN THE
Court of Appeals, District of Columbia.

OCTOBER TERM, 1921.

No. 3610.

WILLIAM P. CRANDELL, APPELLANT,

v.

JOHN L. WEAVER AND CLARENCE DODGE, TRADING
AS THE FIRM OF WEAVER BROTHERS, APPELLEES.

Consolidated with the above case, for hearing on the printed record in said case only, are the following cases, which are to abide by the judgment in the same. The appellees in the following cases are the same as in the above case:

No. 3611, L. T. BROWN, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3612, SUSAN P. KEECH, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3613, CHARLES W. RUSSELL, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3614, EARL B. FULLER, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3615, C. VICTOR ZEBLEY, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3616, HALLIE A. TUCKER, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3617, TOWSON PRICE, *Appellant*, v. WEAVER ET AL.,
Appellees.

No. 3618, CHARLES W. FLOYD, *Appellant*, v. WEAVER ET AL.,
Appellees.

BRIEF ON BEHALF OF APPELLANTS.

The above-entitled causes have, with leave of the court, been consolidated for hearing upon the record of one only of them, to wit, the cause of Crandell v. Weaver *et al.*, No. 3610, to which reference to the record pertains in this brief.

Statement of the Case.

The appellant, being unwilling to pay the large increase in rent demanded by the appellees for Apartment No. 10, the Sheridan, 1523 22d Street N. W., filed, with others, on September 27, 1920, a complaint before the Rent Commission for a determination of a fair and reasonable rent. A determination of said rent was rendered on October 26, 1920, after a hearing on October 13, 1920.

The appellees, not being willing to accept the determination of the Rent Commission, on October 1, 1920, served a notice to quit (Rec., 2) on appellant. This notice was submitted to the Rent Commission on October 15, 1920, and, after a hearing on November 9, 1920, was on November 12, 1920, determined to be "legally insufficient."

The appellees, ignoring the Rent Commission, on or about November 3, 1920, brought suit for possession of the premises concerned, and on November 19, 1920, judgment was rendered in their favor in the Municipal Court, as the Ball Rent Act was then considered invalid. The appellant, defendant below, appealed to the Supreme Court of the District of Columbia, and on February 23, 1921, summary judgment under Rule 19 was rendered against him (Rec., 5). This appeal was taken from said judgment.

Assignments of Error.

1. The court erred in not sustaining the motion to quash the summons and dismiss the action, as (a) sections 20 and 1225 of the Code are unconstitutional, as class legislation and putting a burden on defendant to obtain a jury trial which is not put on defendant in other actions; as (b) the Municipal Court did not have jurisdiction under either the Ball Rent Law or sections 20 or 1225 of the Code; as (c) the action is in defiance of the Ball Rent Law requirements; as (d) the summons served on defendant only had the clerk's name stamped on it with a rubber stamp.

2. The court erred in not striking out plaintiffs' affidavit, as (a) there is a variance between the affidavit and summons; as (b) the notice is not sufficient, as it fixes no day to quit; only says after October 31, 1920; as (c) the affidavit only states conclusions of law and not facts constituting a cause of action; as (d) Rule 19 is unconstitutional, illegal, and void; as (e) the affidavit shows plaintiffs had not complied with any of the requirements of the Ball Rent Law.

3. The court erred in granting judgment for the plaintiffs for possession on the affidavit, for (a) the same reasons as

set out in the foregoing assignments of error, and as (b) the plaintiffs had waived the thirty-day notice by offering defendant, after the expiration of the notice, a new lease at a higher rental; as (c) defendant's affidavit states sufficient facts to raise an issue for a jury as to waiver of notice; as (d) plaintiffs are estopped by the action before the Rent Commission to deny the validity of the Ball Rent Law; as (e) defendant's affidavit distinctly denies compliance by plaintiffs with any of the requirements of (naming them) the Ball Rent Law.

4. The court erred in giving judgment for the plaintiffs on their 30-day notice to quit, as served on defendant, for the said notice was (a) waived by an offer of a new lease at a higher rental, after the service of said notice; (b) served by plaintiffs' attorney in such a manner and accompanied by statements that led defendant to believe that it was only a threat to force the signing of a new lease at a higher rental; (c) not a *bona fide* notice to quit, as the manner of serving the same led defendant to believe that a new lease would be granted by plaintiffs on compromise terms, and it was not until the time specified in the notice had almost expired that defendant was advised and thought that a compromise was impossible, and then only a few days remained out of the thirty days allowed in the notice to arrange for moving; (d) in effect a notice to quit, giving the defendant-tenant an option of remaining in possession upon payment of a specified increased rent, and therefore not valid.

Judgment Clearly Erroneous under Ball Rent Act.

It will be seen by referring to the complaint in the Municipal Court (Rec., 1-2), plaintiffs' affidavit under Rule 19 (Rec., 2), and defendant's affidavit of defense (Rec., 4), that plaintiffs were clearly not entitled to a judgment for possession under the Ball Rent Law (41 Stats. L., 298). The said judgment was rendered February 23, 1921 (Rec., 5)—that is, before the said Rent Law was finally held to be valid by the United States Supreme Court in *Block v. Hirsh*, 49 W. L. R., 242.

Neither the complaint nor the plaintiffs' affidavit shows any compliance with the Ball Rent Act, the former merely stating in substance that the monthly tenancy has been determined by service of a due notice to quit, expiring October 31, 1920, and the latter, in addition, merely setting out the notice in full. The Ball Rent Act was not even mentioned.

The defendant's affidavit, on the other hand, states "plaintiff is not entitled to recover possession," and "defendant instituted proceedings before the Rent Commission * * *, that, after hearing, said notice was declared illegal and insufficient, and no appeal was taken," rendering the finding final and conclusive, according to this court in *Davis v. Cooksey et al.*, 49 W. L. R., 467.

Further on the said affidavit states: "The notice was not in accordance with the requirements of the Ball Rent Law, and a certificate * * * has not been obtained by the plaintiff from the Rent Commission * * * certifying that the plaintiff was entitled to possession." Therefore the defendant's affidavit was clearly a sufficient defense under the Ball Rent Act, according to this court's decision in *Smith v. Pyne et al.*, 49 W. L. R., 468, to bar the plaintiff from

judgment under Rule 19, as section 106 of the act states in part, "In any suit in any court * * * involving any question arising out of the relation of landlord and tenant * * * such court shall determine the rights and duties of the parties in accordance with the determination and regulations of the commission relevant thereto."

Notice to Quit Waived by Later Negotiations.

Even under the general law, it is thought that the notice to quit was insufficient, under the circumstances, to entitle plaintiffs to possession of the premises.

In *Arcade Inv. Co. v. Gieriet*, 109 N. W., 250; 99 Minn., 277, it was held that a notice by a landlord to a tenant to quit may be waived by the landlord giving it, and it is then inoperative.

That the question of actual notice is one of fact for the jury was held in the following cases and many others:

Huntley v. Whittier, 105 Mass., 391; 7 Am. Rep., 536.

Bradbury v. Falmouth, 18 Me., 64.

D'Arcy v. Martyn, 30 N. W., 194; 63 Mich., 602.

French v. Loyal Co., 5 Leigh, 627 (Va.).

As the affidavit of defense states "that the plaintiff has waived the alleged 30 days' notice," and supports this statement with facts to show a waiver, an issue of fact was raised which should have been decided by a jury, as demanded by defendant at the end of said affidavit (Rec., 4), so that it was error to enter a summary judgment for plaintiff, even under the general law.

Tuttle v. Bean, 13 Metc. (Mass.), 275, holds that where,

after notice to quit for nonpayment of rent was given, the tenant tendered the rent, but the landlord refused the money and told the tenant he need not quit, this was a waiver of the notice and renewal of the tenancy, precluding the landlord from maintaining an action on that notice.

The waiver in the case at bar was just as complete as in the above case; for, as stated in the affidavit of defense, "after the service of the said 30 days' notice, and after the expiration of said 30 days' notice, the plaintiff * * * offered the defendant a new lease at a higher rental," conclusively showing that the alleged notice, under the circumstances, was used as a threat to get a higher rent, and was not an absolute, unconditional, and unambiguous notice to quit, which it should have been, according to the decisions, in order to be valid.

Notice to quit should be absolute, according to *Ayres v. Draper*, 11 Mo., 548. An alternative notice was given in that case, so it is analogous to the one at bar.

D'Arcy v. Martyn, 30 N. W., 194; 63 Mich., 602 (before cited), holds that a notice to quit which gives the tenant an option of remaining in possession upon payment of a specified increased rent is not valid.

Carpentier v. Thurston, 30 Cal., 123, holds that if there is any ambiguity in the terms of a notice, rendering its meaning doubtful, the doubt must be resolved against the party giving the notice.

Conclusion.

From the foregoing statement of the case and argument, it is thought that the court will clearly see that the appellees not only brought this action in violation of the requirements of the Ball Rent Act, but obtained the judgment appealed

from after the cause had been heard before the Rent Commission, a fair and reasonable rent fixed for said apartment, which the appellant offered to pay, and the alleged notice to quit served by the appellees as a basis for bringing the action, had been adjudged by said Commission to be "legally insufficient, under the act to regulate rents in said District, approved October 22, 1919, to entitle the said defendants (Weaver Bros.) to possession of the said apartment." The foregoing is quoted from the Commission's determination in *Crandell v. Weaver Bros.*, No. 1917, rendered November 12, 1920.

This court in the recent decision in *Killgore v. Zinkhan*, 49 W. L. R., 437, held that the findings of the Rent Commission, in a proceeding before it to recover possession of rented property, not appealed from, are binding and conclusive upon the courts in a suit thereafter brought for possession of the property.

From the foregoing it is thought that this honorable court will see that the judgment of the court below was erroneous, both under the Ball Rent Act and under the general law, without discussing in detail every ground of error assigned. None of the assigned errors are waived, the argument being shortened merely because the judgment of the lower court is so clearly reversible.

It is, therefore, respectfully urged that the said judgment should be reversed and the cause remanded for further proceedings.

Respectfully submitted,

TOWSON PRICE,
Attorney for Appellants.

